

EXHIBIT B-7

Search Fee Guidelines for Bankruptcy Courts (effective January 1, 1998)

Introduction

The issue of the imposition of the search fee involves an interplay between two different concerns: one, the duty of a clerk's office to provide access to the court's records, and two, the efficient use of the limited resources available in any clerk's office. These guidelines attempt to strike a fair balance between these two competing concerns. In addition, the guidelines are intended to increase consistency of the application of the search fee among courts.

However, the guidelines are meant to inform the clerk's discretion, not to limit it. Thus, the guidelines are not meant to be hard-and-fast rules on the application of the search fee; rather, they are meant to be parameters within which the operations of each individual clerk's office can be adapted.

Guideline No. 1

Any information which is easily retrieved, with a minimum expenditure of time and effort, should be considered a non-chargeable "retrieval," as opposed to a chargeable search. A search fee should not be charged for a single request for basic information readily retrievable through an automated database. A request of this nature should be considered a "retrieval" and should not be considered a "search."

The advent of BANCAP, NIBS, PACER, and VCIS has greatly diminished the resource strain on a clerk's office when retrieving basic information about a case. Basic information is defined as any information which is easily retrievable from an automated database. Although this information will vary according to which system is being utilized by a particular court, basic information which may be retrieved without a search fee may include: (1) whether a particular debtor has filed a bankruptcy petition and the date of filing (when exact name of debtor is provided by requestor); (2) name of debtor (when case number is provided); (3) the debtor's social security number; (4) whether the case is voluntary or involuntary; (5) what chapter a case was originally filed under; (6) the name of the debtor's attorney; (7) the name of the trustee; (8) whether there are assets or no assets; (9) the date of the Section 341 meeting; and (10) the status of the case generally (i.e., open or closed).

The public should be encouraged to come to the court to conduct searches for information, and to utilize all available automated databases.

Guideline No. 2

A search fee should be charged for any request for which accurate case and docket number information is not provided by the requestor and which therefore requires a physical search of the court's records.

A request for information where documents or pleadings are not identified by accurate and complete case and docket number and which therefore requires a physical search of the court's records (whether automated or hard copy) will be considered a "search" which is properly chargeable.

Guideline No. 3

With limited exceptions, a fee should be charged for all written search requests which require a written response.

A written request is defined as any search request made in writing which requires a written response. Because of the time and resources which must be expended in order to respond to a written request, such a request shall be considered a search which is subject to the fee, even if the request is for basic information which may be obtained from an automated database or from the docket sheet. One exception to this guideline applies to courts which require all search requests to be in writing; in such courts, no search fee should be charged for requests for retrievals of "basic" information, as defined in Guideline No. 1, above. An additional exception is the situation where a written request for "basic" information (as defined above), can be responded to by having the clerk's office staff provide a handwritten response on the requestor's letter (as opposed to requiring a separate document in response) and where the requestor has provided a self-addressed, stamped return envelope. In this situation, the time and effort involved do not warrant the imposition of the search fee.

For tracking and accounting purposes, it is recommended that the court not process a written request until the search fee has been received (subject to the limited exception set forth above).

Guideline No. 4

Where requested information is available on VCIS, PACER, or another automated system, a court may have a policy which requires a telephoning requestor to utilize an automated database (VCIS for most individuals and PACER for law firms and other institutions with computer capability), instead of having a court employee conduct the information retrieval.

Much basic information which is sought may be retrievable by a requestor through an automated system without the need for any direct communication with a court employee. In order to maximize the utility of these automated databases and minimize the expenditure of court personnel time, a court may require requestors to use these services where available.

Guideline No. 5

In automated courts, a computer terminal with suitable data protection should be made available for use by the public.

Those offices with computer terminals located in a public access area may adopt the policy set forth in Guideline No. 4 for in-person requests for basic information, i.e., a court may require an in-person requestor to utilize its public access terminal rather than having a court employee retrieve the information.

Guideline No. 6

Case trustees should be charged the same search fees as all other private individuals or entities.

The Bankruptcy Court Miscellaneous Fee Schedule provides only two stated exceptions from fees, one for the "United States" (i.e., federal agencies) and the other for bankruptcy administrators. Thus, there is no authority for a waiver of fees for case trustees.

Some courts have been expanding upon the exception set forth in Item 6 of the Fee Schedule (filing fees for adversary complaints) and only charging

search fees to the case trustee to the extent there is an estate realized. There is no basis for this expansion. Case trustees should be charged the same search fees as other individuals.

Guidelines No. 7

Requests for archived documents should be charged only the archive retrieval fee and not an additional search fee.

Item 13 of the Fee Schedule provides that a fee shall be charged for retrieval of a record from any place that such record may be archived. The Fee Schedule does not refer to any additional fee for such retrieval, and it does not appear that the drafters contemplated two separate fees (one for the request and one for the retrieval) to be charged when a particular document is off-site.

However, the search fee may be charged to an individual who makes a request to the clerk's office for box, location, and accession information of a document in order to conduct his or her own search of the Records Center. In such a case, a physical search of the court's records would be necessary in order to obtain the information, and a search fee would be appropriate. In order to reduce the time involved in responding to these types of requests, and also to make this information more accessible to the public, it is suggested that courts either automate this information or make a duplicate accession number book available to the public.

Guideline No. 8

The clerk has the general authority to refuse to conduct searches which are unreasonable or unduly burdensome.

The clerk of court has the responsibility of being responsive to parties in interest in cases pending in the court. However, this does not mean that either the public or government agencies have an unfettered right to make unreasonable or unduly burdensome demands upon the resources and personnel of a clerk's office. The clerk may (and should) refuse to conduct searches which would require a disproportionate expenditure of time and/or resources, and should encourage entities making such requests to conduct their own search of court records. This includes requests for information which, instead of comprising a single request, include a list of numerous names or items to be searched. Such requestors should be encouraged to utilize automated databases to obtain the desired information.

This procedure applies to federal agencies as well. Although search and copying fees are waived for federal agencies, the clerk is not required to accommodate search or copy requests from such agencies which are unduly burdensome or time-consuming. Because of the volume of requests that often comes from federal agencies, a court may invite or encourage federal agencies (or a local representative), to come into the court to conduct their own searches and should allow them to use court copy facilities.

Another area in which the clerk has unlimited authority to refuse to conduct searches is in connection with requests from credit agencies or other entities for special compilations of information about bankruptcy debtors from the regularly-kept public records of the bankruptcy courts. Although the contents of bankruptcy case files are designated as public records under 11 U.S.C. § 107, previously compiled internal dockets or other compilations are not within the scope of section 107. Thus, the clerk is under no obligation to release such internal compilations.